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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,280	05/13/2002	Frank Henry Read	214764	6077

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EXAMINER

KALIVODA, CHRISTOPHER M

ART UNIT PAPER NUMBER

2881

DATE MAILED: 08/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

10/009,280

Applicant(s)

READ, FRANK HENRY

Examiner

Christopher M. Kalivoda

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,8-54 and 57-60 is/are allowed.
- 6) ☒ Claim(s) 55 and 56 is/are rejected.
- 7) ☒ Claim(s) 2-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The disclosure is objected to because of the following informalities: There appears to be a word missing on page 13, line 18 in the beginning of the last sentence. Appropriate correction is required.

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form

PTO-892, they have not been considered. There are references located on page 1, lines 14-17 and page 2, lines 6-7 not identified on the IDS.

### ***Claim Objections***

Claim 2 is objected to because of the following informalities: It is believed there is a typographical error in claim 2 and the surface of the detection means should be **parallel** to said axis. This is because claim 5 further defines claim 2 reciting a curved surface. This suggests the first embodiment found on page 9, lines 10-13 and figure 1. If the assumption were correct, then the surface in claim 2 would be parallel to the axis. Furthermore, claim 6 further defines the detection surface to be conical which is again curved. Appropriate correction is required.

Claim 3 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 2 recites the detector surface **transverse** to said axis. Claim 3 recites the same detector surface **orthogonal** to said axis. In this case, the detector surface is already orthogonal, transverse or perpendicular to said axis.

Claim 4 is objected to because of the following informalities: It is believed there is a typographical error and that claim 4 should depend upon claim 3. This combination

Art Unit: 2881

of claims 3 and 4 are believed to be the embodiment represented by figure 6 and page 18, second paragraph. Appropriate action is required.

Claims 5-7 are objected to because of the following informalities: These claims depend upon other claims that are objected to.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 55 and 56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 55 recites the limitation "said one element" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 56 recites the limitation "predetermined energy range" in lines 3-4 and 5-6. There is insufficient antecedent basis for this limitation in the claim.

***Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter regarding claims 1, 8-54 and 57-60. Regarding independent claim 1, a review of

Art Unit: 2881

prior art failed to disclose or make obvious a charged particle energy analyzer comprising an electrostatic focusing field defined by equipotentials which extend about said axis and which vary substantially linearly in the direction of said axis and which vary substantially logarithmically in the radial direction.

Claims 8-54 and 57-60 are allowable because they depend upon claim 1 or claims that depend upon claim 1.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 5,008, 535 to Van Gorkom and describes a charge analyzing system similar to that claimed by applicant. However, it lacks equipotentials which vary substantially linearly in the direction of the axis and which vary substantially logarithmically in the radial direction. Similarly, U.S. Patent 5,594,244 to Prutton describes an electron energy spectrometer but lacks equipotentials which vary substantially linearly in the direction of the axis and which vary substantially logarithmically in the radial direction.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Kalivoda whose telephone number is (703)-305-7443. The examiner can normally be reached on Monday - Friday (8:30 - 5:00).

Art Unit: 2881

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on (703)-308-4116. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9318 for regular communications and (703)-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0956.

cmk  
July 17, 2003



JOHN R. LEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600